

HOUSE No. 3528

The Commonwealth of Massachusetts

PRESENTED BY:

Karyn E. Polito

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to protecting children from exploitation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Karyn E. Polito	11th Worcester
Paul K. Frost	7th Worcester
Bradley H. Jones, Jr.	20th Middlesex
Richard J. Ross	9th Norfolk
Todd M. Smola	1st Hampden
Anne M. Gobi	5th Worcester
Michael R. Knapik	Second Hampden and Hampshire
Bruce E. Tarr	First Essex and Middlesex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO PROTECTING CHILDREN FROM EXPLOITATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (a) of Section 29A of chapter 272 of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 9-10, the words:— “or
3 by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and
4 imprisonment” and inserting in place thereof the following words:— “, and whoever, either with
5 knowledge that a person is a child under fourteen years of age or while in possession of such facts that he
6 should have reason to know that such person is a child under fourteen years of age, and with lascivious
7 intent, hires, coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly
8 permits such child to pose or be exhibited in a state of nudity, for the purpose of representation or
9 reproduction in any visual material, shall be punished by imprisonment in the state prison for a term of
10 not less than ten years nor more than twenty-five years. The provisions of section 87 of chapter 276
11 relating to the power of the court to place certain offenders on probation shall not apply to any person
12 charged with a violation of this section.”

13 SECTION 2. Paragraph (b) of Section 29A of chapter 272 of the General Laws, as appearing in
14 the 2006 Official Edition, is hereby amended by striking out, in lines 7-10, the words:— “shall be
15 punished by imprisonment in the state prison for a term of not less than ten nor more than twenty years, or
16 by a fine of not less than ten thousand nor more than fifty thousand dollars, or by both such fine and
17 imprisonment” and inserting in place thereof the following words:— “shall be punished by imprisonment
18 in the state prison for a term of not less than fifteen nor more than twenty-five years, and whoever, either
19 with knowledge that a person is a child under fourteen years of age or while in possession of such facts
20 that he should have reason to know that such person is a child under fourteen years of age, and hires,
21 coerces, solicits or entices, employs, procures, uses, causes, encourages, or knowingly permits such child
22 to participate or engage in any act that depicts, describes, or represents sexual conduct for the purpose of
23 representation or reproduction in any visual material, or to engage in any live performance involving
24 sexual conduct, shall be punished by imprisonment in the state prison for a term of not less than twenty
25 years nor more than thirty years. The provisions of section 87 of chapter 276 relating to the power of the
26 court to place certain offenders on probation shall not apply to any person charged with a violation of this
27 section.”

28 SECTION 3. Section 29A(d) of chapter 272, as appearing in the 2006 Official Edition, is hereby
29 amended by adding, following the word “eighteen” in line 26, the following:— “or under fourteen”.

30 SECTION 4. Paragraph (a) of Section 29B of chapter 272 of the General Laws, as appearing in
31 the 2006 Official Edition, is hereby amended by striking out, in lines 9-13, the words:— “shall be
32 punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not
33 less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any
34 economic gain derived from said dissemination, whichever is greater, or by both such fine and
35 imprisonment” and inserting in place thereof the following words:— “for the first offense, shall be
36 punished in the state prison for a term of not less than ten years nor more than twenty years or by a fine of
37 not less than fifty thousand dollars or ten times the monetary value of any economic gain derived from
38 said dissemination, whichever is greater, or by both such fine and imprisonment; a second or subsequent
39 violation of this section shall be punished in the state prison for a term of not less than fifteen years nor
40 more than twenty years.”

41 SECTION 5. Paragraph (b) of Section 29B of chapter 272 of the General Laws, as appearing in
42 the 2006 Official Edition, is hereby amended by striking out, in lines 22-26, the words:— “shall be
43 punished in the state prison for a term of not less than ten nor more than twenty years or by a fine of not
44 less than ten thousand nor more than fifty thousand dollars or three times the monetary value of any
45 economic gain derived from said dissemination, whichever is greater, or by both such fine and
46 imprisonment” and inserting in place thereof the following words:— “shall be punished in the state prison
47 for a term of not less than ten years nor more than twenty years. The provisions of section 87 of chapter
48 276 relating to the power of the court to place certain offenders on probation shall not apply to any person
49 charged with a violation of this section.”

50 SECTION 6. Paragraph (vii) of Section 29C of chapter 272 of the General Laws, as appearing in
51 the 2006 Official Edition, is hereby amended by striking out, in lines in lines 23-32, the words:— “shall
52 be punished by imprisonment in the state prison for not more than five years or in a jail or house of
53 correction for not more than two and one-half years or by a fine of not less than \$1,000 nor more than
54 \$10,000, or by both such fine and imprisonment for the first offense, not less than five years in a state
55 prison or by a fine of not less than \$5,000 nor more than \$20,000, or by both such fine and imprisonment
56 for the second offense, not less than 10 years in a state prison or by a fine of not less than \$10,000 nor
57 more than \$30,000, or by both such fine and imprisonment for the third and subsequent offenses” and
58 inserting in place thereof the following words:— “shall be punished by imprisonment in the state prison
59 or in a jail or house of correction for a term of not less than two years or by a fine of not less than \$10,000
60 nor more than \$30,000, or by both such fine and imprisonment for the first offense, not less than five
61 years in a state prison or by a fine of not less than \$50,000 nor more than \$100,000, or by both such fine
62 and imprisonment for the second offense, not less than ten years in a state prison for the third and
63 subsequent offenses.”